

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, "Campaign Disclosure Procedures," Chapter 7, "Personal Financial Disclosure," Chapter 8, "Executive Branch Lobbying," and Chapter 15, "Waivers or Variances from Administrative Rules," Iowa Administrative Code.

In order to provide consistency in reviewing and making determinations concerning requests for waivers of late-filed reports, the Board has created a Waiver of Civil Penalty form. The proposed amendments reflect that a request for waiver of a civil penalty shall be submitted on this form in lieu of the current process, which permits the submission of a request for waiver by letter, with no specific guidance as to how the request is to be filed.

The proposed amendments do not contain a specific waiver provision, as they are establishing the form to be used by the regulated community in seeking a waiver of certain Board rules.

Any interested person may make written comments on the proposed amendments on or before June 23, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

These amendments are intended to implement Iowa Code sections 68B.32A(5), 68B.32A(8), and 68B.32A(9).

The following amendments are proposed.

ITEM 1. Amend rule 351—4.60(68B) as follows:

**351—4.60(68B) Requests for waiver of penalties.** If a person believes that there are mitigating circumstances that prevented the timely filing of a report, the person may make a written request to the board for waiver of the penalty by filing a Petition for Waiver of Civil Penalty form. A person seeking a waiver must submit the request to the board within 30 days of receiving a civil penalty assessment order. Waivers may be granted only under exceptional or very unusual circumstances. The board will review the request and issue a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty is waived based on the circumstances. If a denial or partial waiver is issued, the person shall promptly pay the assessed penalty or seek a contested case proceeding pursuant to rule 351—4.61(68B).

This rule is intended to implement Iowa Code ~~Supplement~~ section 68B.32A(8).

ITEM 2. Amend rule 351—7.6(68B) as follows:

**351—7.6(68B) Requests for waiver of penalties.** If an individual holding a designated position in the executive branch believes that mitigating circumstances prevented the timely filing of Form PFD, the individual may make a written request to the board for waiver of the penalty by filing a Petition for Waiver of Civil Penalty form. The request for waiver must be received by the board within 30 days of notification to the individual of the civil penalty assessment. Waivers may be granted only under exceptional or very unusual circumstances. The board will review the request and issue a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty may be waived based on the circumstances.

This rule is intended to implement Iowa Code ~~section~~ sections 68B.32A(5) and 68B.32A(9).

ITEM 3. Amend rule 351—8.12(68B) as follows:

**351—8.12(68B) Request for waiver of penalty.** An executive branch lobbyist or an executive branch lobbyist client that believes there are mitigating circumstances that prevented the timely filing of a report may make a written request to the board for waiver of the penalty. The board must receive the request for waiver within 30 days of the lobbyist's or lobbyist client's being notified of the civil penalty assessment by filing a Petition for Waiver of Civil Penalty form. Waivers will be granted only for exceptional or very unusual circumstances. The board will review the request and issue a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty is waived based on the circumstances. If a denial or partial waiver is issued, the person shall promptly pay the assessed penalty or request a contested case proceeding pursuant to rule 351—8.13(68B) to appeal the board's decision.

This rule is intended to implement Iowa Code sections 68B.32A(5) and 68B.32A(9).

ITEM 4. Amend rule 351—15.2(17A,68A,68B) as follows:

**351—15.2(17A,68A,68B) Scope of chapter.** This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board in situations when no other more specifically applicable law or rule provides for waivers. To the extent another more specific provision of law or rule governs the issuance of a waiver, the more specific provision shall supersede this chapter with respect to any waiver process. A person seeking a waiver of a civil penalty under rule 351—4.60(68B), 351—7.6(68B), or 351—8.12(68B) for the late filing of a report is not required to follow the process set out in this chapter. The person may instead file the waiver request by submitting a ~~letter that includes any reasons why a waiver should be granted~~ Petition for Waiver of Civil Penalty form.